

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

SARAH SMITH, MICHAEL CRISCO,)	
and JEFFREY MORROW,)	
Individually and as)	
representatives of a class)	
of similarly situated persons,)	
)	
Plaintiffs,)	
)	
v.)	1:20CV813
)	
SHOE SHOW, INC., BOARD OF)	
TRUSTEES OF SHOE SHOW)	
RETIREMENT SAVINGS PLAN; JOHN)	
VAN DER POEL, ROBERT TUCKER,)	
LISA TUCKER, and SPENCER)	
NORTHCUTT,)	
)	
Defendants.)	

ORDER

On December 2, 2020, Plaintiffs filed Plaintiff's Motion for Class Certification and Motion for Appointment of Fitzgerald Law as Class Counsel ("First Motion"). (Doc. 16.) On December 17, 2020, this court entered an order postponing further briefing and final determination of Plaintiff's motion for class certification. (Doc. 21.) Thereafter, on February 25, this court denied the motion dismiss, (Doc. 11), in part and instructed the parties to proceed with further briefing on class certification and class counsel. On August 15, 2022, the mediator filed a notice advising the court the case had been settled. (Doc. 38.)

On September 29, 2022, Plaintiffs filed their Motion for Preliminary Approval of Class Action Settlement, Preliminarily Certifying a Class for Settlement Purposes, Approving Form and Manner of Settlement Notice, Preliminarily Approving Plan of Allocation and Scheduling a Date for a Fairness Hearing ("Motion"). (Doc. 42.) In that motion, Plaintiffs move for appointment of Class Representatives and Class Counsel. (Id. at 4.) This court finds the Motion is now the operative pleading in this case as to, inter alia, Class Certification and Class Counsel. The First Motion is moot and will be denied without prejudice.

This court has taken the Motion under advisement and will issue a separate order addressing the issues raised in the Motion.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Class Certification and Motion for Appointment of Fitzgerald Law as Class Counsel, (Doc. 16.), is **DENIED WITHOUT PREJUDICE**.

This the 30th day of September, 2022.


United States District Judge